



**Employees' Retirement Board of Rhode Island**  
**Monthly Meeting Minutes**  
**Wednesday, July 10, 2013**  
**9:00 a.m.**  
**2nd Floor Conference Room, 50 Service Avenue**

The Monthly Meeting of the Retirement Board was called to order at 9:00 a.m. Wednesday, July 10, 2013, in the 2<sup>nd</sup> Floor Conference Room, 50 Service Avenue, Warwick, RI.

## **I. Roll Call of Members**

The following members were present at roll call: General Treasurer Gina M. Raimondo; Vice Chair William B. Finelli; Gary R. Alger, Esq.; Frank R. Benell, Jr.; Michael R. Boyce; M. Carl Heintzelman; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Claire M. Newell and Jean Rondeau.

Also in attendance: Frank J. Karpinski, ERSRI Executive Director; Attorney Michael P. Robinson, Board Counsel.

Recognizing a quorum, Treasurer Raimondo called the meeting to order.

Mr. Roger P. Boudreau arrived at 9:07 a.m., and Mr. Richard A. Licht arrived at 9:12 a.m.

## **II. Approval of Minutes**

On a motion by John P. Maguire and seconded by William B. Finelli, it was unanimously **VOTED: To approve the draft minutes and executive session minutes of the June 12, 2013 meeting of the Employees' Retirement System of Rhode Island.**

## **III. Chairperson's Report**

Treasurer Raimondo informed the Board there was no update regarding the pension reform litigation.

The Treasurer then apprised the Board that the SEC closed the investigation into bond disclosure practices by the State of Rhode Island. She told the Board that no action is being taken by the SEC.

The Treasurer then apprised the Board that the 1-year performance as of May 31, 2013 is 16.5% and the 3-year performance is 10.6%. She then said the 5-year standard deviation, which is a measure of risk, is 12% and 19-month standard deviation risk is 6%. The Treasurer said the efforts to mitigate risk while maintaining strong returns have proven successful.

Treasurer Raimondo informed the Board that Attorney Mark A. Dingley will now act as special counsel dealing with special projects. Attorney Melissa Malone has been promoted to General Counsel for the State of Rhode Island Treasury. She thanked both Attorneys for their efforts and a job well done. The Treasurer also mentioned that

Attorneys Mambro-Martin and Marcaccio will expand their work with disability processing. The Treasurer then asked Ms. Mambro-Martin and Mr. Marcaccio to update the Board on disability.

Ms. Mambro-Martin updated the Board on the hot line tracking; she noted a slight increase of 9 calls. She also updated the Board on securing the services of psychiatrists for IME's. She said she will be meeting with them in the next couple of weeks to do a short presentation and then to begin assigning applicants to them.

Mr. Marcaccio gave a brief overview on the compliance process and sending out continuing statements of disclosure forms. He said the 2013 continuing statements consist of two sections: (i) The Annual Employment Report for the Tax Year 2012 and (ii) The Annual Medical Report for 2013.

Mr. Marcaccio noted the Retirement Board is required to adjust a member's retirement benefit if the member's outside earnings exceed the statutory limit. Additionally, the Retirement Board may require any member who is under minimum service retirement age to undergo an annual medical examination. He said members provide ERSRI with their earnings information and updated medical reports by submitting an annual Continuing Statement. He then updated the Board of the mailings and provided the following schedule:

Date	Event	Notes
January 16, 2013	Initial Mailing	Mailed to 524 Members (37% of all members)
April 19, 2013	Due Date	365 Responses Received by April 19 <sup>th</sup> (70%)
May 10, 2013	*Second Notice	
June 28, 2013	Extended Due Date	466 Responses Received by June 28 <sup>th</sup> (89%)
July 8, 2013	*Third & Final Notice	Responses Due by August 16 <sup>th</sup>

Mr. Boyce asked if there was a specific policy if someone has exceeded the amount of money they may earn. Mr. Marcaccio said for members who may be overpaid, a calculation is made and a payment notice is sent to the member. Mr. Marcaccio said if no response is received by the member, the member's pension is suspended in full. Mr. Boyce asked if, for example, the repayment amount can be divided with minimum required payments to be paid back within a year.

Treasurer Raimondo asked Director Karpinski what ERSRI's policy is to collect funds. The Director said the policy is if a member is overpaid over a year's period of time, for example, ERSRI will try to collect those funds over a year. He said ERSRI's practice is to collect funds as soon as possible.

There being no further questions, Mr. Marcaccio concluded his presentation.

Treasurer Raimondo then asked the Board for a motion to not have an August Board meeting, but to have the ability to call one if necessary.

On a motion by Jean Rondeau and seconded by John P. Maguire, it was unanimously

**VOTED: That there be no August 2013 meeting of the Retirement Board but with the ability to call one if necessary.**

Mr. Boudreau asked the Treasurer about the timing of the quarterly investment update from the CIO. The Treasurer and Director Karpinski noted that investment information from the quarter ending June 30, 2013 would not be available until the end of July. Since there is no Board meeting in August, the June 30 update would be in September.

The Treasurer advised Mr. Boudreau that the on-going quarterly investment update would be more practical to be 2 months after the quarter-end given the timing of the availability of investment information and the Board meeting. Mr. Boudreau concurred.

Mr. Boudreau then requested that CIO Ann Marie Fink perform an analysis to compare the performance results using the current portfolio with those of the prior portfolio, using a start date of July 1, 2007, and an end date of June 30, 2013. Given the nature of the request, Treasurer Raimondo asked Mr. Boudreau if his inquiry could be put in writing so she could forward it to Chief Investment Officer Fink. Mr. Boudreau agreed.

#### **IV. Executive Director's Report**

Director Karpinski apprised the Board that they were in possession of the June 30, 2013 Pension Application Report, the Disability Subcommittee Report, and a PowerPoint presentation on the *ERSRI Continuing Disclosure for Members Receiving a Disability Retirement* which Mr. Marcaccio just provided to the Board.

Director Karpinski provided the Board with an update on the TIAA-CREF DC plan. He told the Board that Mr. Mark Rhoads (DC Manager) is reviewing the actual payrolls to verify that the correct contributions have been withheld. He noted that Mr. Rhoads did find some discrepancies. The Westerly School Department and the COMPASS School had incorrect contribution amounts withheld. Director Karpinski said the Westerly School department has submitted a majority of the corrected contributions to remedy their issue and the COMPASS school is fully resolved.

Director Karpinski also apprised the Board that at the September Board meeting, TIAA-CREF will provide the Board with an update of the plan for the first year of operation for the period ending June 30, 2013.

The Director updated the Board on the actuarial audit of Gabriel, Roeder, Smith and Company (GRS) by Cheiron and said the audit will be presented at the September 11, 2013 Board meeting. Director Karpinski then provided the Board with a time-line of events relating to the annual valuation process. He said the Board could expect the valuation as of June 30, 2013 to be presented at the December 2013 Board meeting and said GRS will be producing an experience study for the period ending June 30, 2013 that should be presented in the March or April 2014 Board meeting. Director Karpinski said the actuarial audit was timely as the results and/or recommendations will be incorporated into the pending valuation and experience study.

Director Karpinski apprised the Board that the “poll” of available dates for a planning session did not yield enough members. He said he would try another timeframe in September or October. He suggested if no dates could be accommodated, it may be necessary to dedicate a Board meeting to a planning session.

The Director noted that the work has begun with the IT contractor Morneau Shepell and they will be at the ERSRI office tomorrow and Friday.

Mr. Boudreau asked Director Karpinski about the SRA Plus option language relating to a possible adjustment and when such regulation could be considered by the Rules and Regulations Subcommittee. The Director said the regulation has been drafted and is available for review.

Director Karpinski apprised the Board that the “Report of Contributions” delinquency reports are included in the Board book and noted that Town of Bristol, who was noted as delinquent, has subsequently made payments and is current.

The Director noted on the Post Retirement Report for teachers that the dates were keyed in error for retiree Deborah Ray. The actual is 86.5 for the employer count and 89 for employee count.

## **V. Administrative Decisions**

### **Disability Appeal – Joseph R. Theroux vs. ERSRI**

Included in the board books, under separate cover, were the Findings of Fact as concluded by the Disability Subcommittee, transcripts from the appeal to the Disability Subcommittee, medical and supporting information for the matter of *Joseph R. Theroux vs. ERSRI*. Attorney Robinson asked if consistent with Regulation Number 9, *Rules pertaining to the application to receive an Ordinary or Accidental Disability Pension*, there were any written briefs, legal memoranda, or exceptions to the conclusions and recommendation of the Disability Subcommittee which must have been submitted to the Executive Director not later than 10 days prior to the hearing. Director Karpinski apprised the Board that there have not been any more filings and that all the information that was received relative to the case from the Disability Subcommittee was included in the Board members' books.

Attorney Robinson then said that pursuant to ERSRI's regulations, each party to the proceeding has the right to appear and to make oral arguments before the Retirement Board. Consistent with the Board's long standing policy and regulations, he apprised the appellant that this is not an opportunity to present new factual material or evidence to the Board. He said the Board affords deference to the conclusions of its Disability Subcommittee on factual determinations and questions of credibility and will not overturn those determinations and assessments unless they are found to be clearly wrong. Attorney Robinson apprised the Board that Mr. Theroux was being represented by Attorney Marc Gursky.

Attorney Robinson then provided a synopsis of the *Joseph R. Theroux vs. ERSRI* matter. There being a stenographer present, the parties presented their cases. Mr. John P. Maguire recused himself on this matter.

At the conclusion of the hearing a motion was made by Roger P. Boudreau and seconded by Jean Rondeau to overturn the decision of the Disability Subcommittee and award Mr. Theroux a disability benefit. A roll call was taken. The following members voted Yea: General Treasurer Gina M. Raimondo; Vice Chair William B. Finelli; Gary R. Alger, Esq.; Frank R. Benell, Jr.; Roger P. Boudreau; Michael R. Boyce; Richard A. Licht; John J. Meehan; Thomas A. Mullaney; Claire M. Newell and Jean Rondeau. The following member voted Nay: M. Carl Heintzelman.

There being 12 votes cast, 11 voted in the affirmative, and 1 nay, consistent with Rhode Island General Laws §36-8-6, *Votes of the Board -- Record of Proceedings*, there being a majority vote of the members present and voting at which a quorum is present, it was then

**VOTED: To overturn the decision of the Disability Subcommittee and award Joseph R. Theroux a disability benefit.**

### **Disability Appeal – Madeline Viveiros vs. ERSRI**

Included in the board books, under separate cover, were the Findings of Fact as concluded by the Disability Subcommittee, transcripts from the appeal to the Disability Subcommittee, medical and supporting information for the matter of *Madeline Viveiros*

*vs. ERSRI*. Attorney Robinson asked if consistent with Regulation Number 9, *Rules pertaining to the application to receive an Ordinary or Accidental Disability Pension*, there were any written briefs, legal memoranda, or exceptions to the conclusions and recommendation of the Disability Subcommittee which must have been submitted to the Executive Director not later than 10 days prior to the hearing. Director Karpinski apprised the Board that everything has been included in the Board book.

Attorney Robinson then said that pursuant to ERSRI's regulations, each party to the proceeding has the right to appear and to make oral arguments before the Retirement Board. Consistent with the Board's long standing policy and regulations, he apprised the appellant that this is not an opportunity to present new factual material or evidence to the Board. He said the Board affords deference to the conclusions of its Disability Subcommittee on factual determinations and questions of credibility and will not overturn those determinations and assessments unless they are found to be clearly wrong. Attorney Robinson apprised the Board that Ms. Viveiros was being represented by Attorney Arthur Chatfield.

Attorney Robinson then provided a synopsis of the *Viveiros vs. ERSRI* matter. There being a stenographer present, the parties presented their cases.

Attorney Robinson queried Attorney Chatfield if he intended to ask the Board to remand his client's matter back to the Disability Subcommittee for consideration of new evidence that was not previously available to the Disability Subcommittee in their deliberations. Attorney Chatfield affirmed this was his request.

After a brief discussion, a motion was made by Michael R. Boyce and seconded by Roger P. Boudreau to remand the matter back to the Disability Subcommittee for consideration of new information. A roll call was taken. The following members voted Yea: General Treasurer Gina M. Raimondo; Vice Chair William B. Finelli; Gary R. Alger, Esq.; Frank R. Benell, Jr.; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; Richard A. Licht; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Claire M. Newell and Jean Rondeau.

There being 13 votes cast, 13 voted in the affirmative, consistent with Rhode Island General Laws §36-8-6, *Votes of the Board -- Record of Proceedings*, there being a majority vote of the members present and voting at which a quorum is present, it was then

**VOTED: To remand the matter of *Viveiros vs. ERSRI* back to the Disability Subcommittee for consideration of new information to be submitted by the applicant.**

## **VI. Approval of the June Pensions as Presented by ERSRI**

On a motion by William B. Finelli and seconded by Thomas A. Mullaney, it was unanimously

**VOTED: To approve the June pensions as presented.**

## **VII. Legal Counsel Report**

Attorney Robinson suggested that a motion would be in order for the Board to convene in Executive Session to discuss the three pending litigation matters identified on the



agenda pursuant to Rhode Island General Laws section §42-46-5 (a)(2) regarding pending or potential litigation involving the Retirement System.

Consistent with Rhode Island General Laws section §42-46-5 (a)(2) regarding pending or potential litigation involving the Retirement System, a motion was made by Jean Rondeau and seconded by Richard A. Licht to convene the Board in Executive Session to discuss each of the 3 bulleted items identified under the Legal Counsel Report on the agenda, specifically:

- 1) Jennifer Leyden vs. ERSRI**
- 2) John R. Grasso vs. Gina M. Raimondo, Frank J. Karpinski individually and in their official capacities, the ERSRI Board and the State of Rhode Island**
- 3) Update regarding special Mastership and Central Coventry Fire District**

A roll call vote was taken to enter into Executive Session, the following members were present and voted Yea: General Treasurer Gina M. Raimondo; Vice Chair William B. Finelli; Gary R. Alger, Esq.; Frank R. Benell, Jr.; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; Richard A. Licht; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Claire M. Newell and Jean Rondeau. It was unanimously

**VOTED: To convene the Board in Executive Session pursuant to Rhode Island General Laws section §42-46-5 (a)(2) to discuss pending or potential litigation involving the 3 matters listed on the agenda involving:**

- 1) Jennifer Leyden vs. ERSRI**
- 2) John R. Grasso vs. Gina M. Raimondo, Frank J. Karpinski individually and in their official capacities, the ERSRI Board and the State of Rhode Island**
- 3) Update regarding special Mastership and Central Coventry Fire District**

#### **[Executive Session]**

The Board thereafter convened in executive session.

#### **[Return to Open Session]**

Upon returning to open session, the Board noted for the record that the following votes had been taken in executive session:

In the matter of *Jennifer Leyden vs. ERSRI* the Board authorized Board Counsel Robinson to file a petition for a writ of certiorari with the Rhode Island Supreme Court with regards to the recent decision by the Superior Court, and to seek a stay of the administrative proceedings during the pendency of the petition for certiorari; and in the event the stay is denied to remand the matter back to the Disability Subcommittee for further proceedings.

A motion was made by Richard A. Licht and seconded by Gary R. Alger, Esq., it was

**VOTED: To authorize Board Counsel Michael P Robinson, Esq. to file a petition for a writ of certiorari with the Rhode Island Supreme Court with regards to the recent decision by the Superior Court, and to seek a stay of the administrative proceedings during the pendency of the petition for certiorari; and in the event the stay is denied to remand the matter back to the Disability Subcommittee for further proceedings.**

Michael R. Boyce voted nay. John P. Maguire exited the Board room and did not participate in the discussion or vote in the Jennifer Leyden matter.

In the matter of *John Grasso vs. Gina Raimondo et al*, the Board authorized Attorney Robinson to represent General Treasurer Raimondo and Executive Director Karpinski in their official and individual capacities along with the Retirement Board with a unanimous vote and one abstention from Treasurer Raimondo.

A motion was made by Roger P. Boudreau and seconded by Richard A. Licht, it was unanimously voted with one abstention

**VOTED: To authorize Attorney Robinson to represent General Treasurer Raimondo and Executive Director Karpinski in both their official and individual capacities along with the Retirement Board.**

Lastly, on a motion made by Roger P. Boudreau and seconded by Richard A. Licht, to exit executive session and return to open session, it was unanimously

**VOTED: To exit executive session and return to open session.**

## VIII. Committee Reports

### Disability Subcommittee:

The Disability Subcommittee recommended the following actions on disability applications for approval by the full Board as a result of its meeting on July 8, 2013:

Name	Membership Group	Type	Action
1. Albert Turcotte	State	Accidental	Postpone
2. Henry Jacques	State	Accidental	Approve
3. Philip DeBeaulieu	State	Accidental	Postpone
4. Jane Johnson	State	Ordinary	Approve
5. Jennifer Lambert	Teacher	Ordinary	Postpone
6. Jason Le Court	State	Accidental	Postpone
7. Karl Stumpff	State	Ordinary	Postpone
8. Joanne King	State	Ordinary	Approve

On a motion by William B. Finelli and seconded by Michael R. Boyce, it was unanimously

**VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, July 8, 2013 on item 5.**

John P. Maguire recused himself from the vote on number 5.

On a motion by William B. Finelli and seconded by Michael R. Boyce, it was unanimously

**VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, July 8, 2013 on item 7.**

John J. Meehan recused himself from the vote on number 7.

On a motion by William B. Finelli and seconded by Michael R. Boyce, it was unanimously

**VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, July 8, 2013 on items 2 and 8.**

Claire Newell recused herself from the vote on numbers 2 and 8.

On a motion by William B. Finelli and seconded by Michael R. Boyce, it was unanimously

**VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, July 8, 2013 on items 1, 3, 4 and 6.**

## **IX. Adjournment**

There being no other business to come before the Board, on a motion by John P. Maguire and seconded by Roger P. Boudreau, the meeting adjourned at 10:55 a.m.

Respectfully submitted,

**Frank J. Karpinski**

Executive Director